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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/495,708	02/01/2000	Yutaka Kai	1460.1002	5201
21171	7590	11/04/2004	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			BELLO, AGUSTIN	
			ART UNIT	PAPER NUMBER
			2633	

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/495,708

Applicant(s)

KAI ET AL.

Examiner

Agustin Bello

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,5-22,24,25,27-47,49-52 and 54-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,23,26,48 and 53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species II, Figure 2 in the reply filed on 7/2/04 is acknowledged. However, contrary to the applicant's assessment of claims readable thereon, the examiner finds that only claims 1, 4, 23, 26, 48, and 53 read on the elected species. The remaining claims claim material drawn to non-elected species.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 23, 48 and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Iwamoto (U.S. Patent No. 5,768,010).

Regarding claims 1 and 23, Iwamoto teaches an acoustic optical tunable filter (AOTF) (Figure 2) for rotating polarization in accordance with a radio-frequency signal (inherent function of an AOTF) and for branching light into selected-wavelength light (reference letter L2 in Figure 1) and light with other wavelengths (reference letter L3 in Figure 1) in accordance with the radio-frequency signal (reference numeral 4 in Figure 2), a radio-frequency signal generating means (reference numeral 4, 12 in Figure 2) for generating said radio-frequency signal; a light intensity detecting means (reference numeral 14 in Figure 2) for detecting light from said acoustic optical tunable filter; and a radio-frequency signal controlling means (reference numeral 13 in Figure 2) for controlling said radio-frequency signal generating means

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so as to select light of a predetermined wavelength in accordance with an output of said light intensity detecting means (abstract).

Regarding claim 48 and 53, Iwamoto teaches that said radio-frequency signal controlling means (reference numeral 13 in Figure 2) controls said radio-frequency signal generating means (reference numeral 4, 12 in Figure 2) so as to select light of a predetermined wavelength in accordance with the output of said light intensity detecting means to thereby compensate for shifts in the selected wavelengths due to temperature changes (column 6 lines 1-20).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwamoto.

Regarding claims 4 and 26, Iwamoto teaches that said frequency controlling means (reference numeral 13 in Figure 2) controls the frequency of said radio-frequency signal so that the light intensity of said optical signal of specific wavelength is at a desired intensity and position when changes in the environment of the system, and hence wavelength, occur. Iwamoto differs from the claimed invention in that Iwamoto fails to specifically teach that the intensity of the optical signal is maximized every time said optical signal of specific wavelength is changed. However, one skilled in the art would clearly have recognized that the ability to select the desired intensity and position of the optical signal as taught by Iwamoto would have included the ability to maximize the intensity for the optical signal. One skilled in the art would have been

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motivated to do so in order to ensure that the desired signal is selected at a maximum intensity, thereby ensuring the highest fidelity possible for the selected signal. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to maximize the intensity of the optical signal every time said optical signal of specific wavelength is changed.

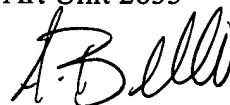
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Agustin Bello whose telephone number is (571) 272-3026. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Agustin Bello
Examiner
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